

Message

From: Hurlid, Kathy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F3B04131F1145FCB4CCF5B0A64C1AC4-KHURLD]
Sent: 9/5/2018 2:12:28 PM
To: Frazer, Brian [Frazer.Brian@epa.gov]
Subject: Re: quick input needed Re: MOA with track changes

Such optimism, btw, that was supposed to be meeting not merging.

Sent from my iPhone

> On Sep 5, 2018, at 10:09 AM, Frazer, Brian <Frazer.Brian@epa.gov> wrote:
>
> That's what I suspected. However, folks at the WH believe this assumption approval is a done deal.
>
> bf
>
> *****
> Brian Frazer, Acting Director
> Oceans, Wetlands and Communities Division
> Office of Wetlands, Oceans and Watersheds
> US Environmental Protection Agency
> 202-566-1652
>
>
> Sent from my iPhone
>
>> On Sep 5, 2018, at 10:07 AM, Hurlid, Kathy <Hurlid.Kathy@epa.gov> wrote:
>>
>> Check vm. A complete package would be difficult and not possible as we are merging through Friday and there are still key issues outstanding e.g., esa, retained waters, etc
>>
>> Sent from my iPhone
>>
>>> On Sep 5, 2018, at 8:58 AM, Hurlid, Kathy <Hurlid.Kathy@epa.gov> wrote:
>>>
>>> Can confirm today, but last we heard (Monday) was a draft package next week maybe with final after that
>>>
>>> Sent from my iPhone
>>>
>>>> On Sep 5, 2018, at 6:57 AM, Frazer, Brian <Frazer.Brian@epa.gov> wrote:
>>>>
>>>> Will the state have their completed package in to the region this week? Heard rumors that they're ready to move forward.
>>>>
>>>> bf
>>>>
>>>> *****
>>>> Brian Frazer, Acting Director
>>>> Oceans, Wetlands and Communities Division
>>>> Office of Wetlands, Oceans and Watersheds
>>>> US Environmental Protection Agency
>>>> 202-566-1652
>>>>
>>>>
>>>> Sent from my iPhone
>>>>
>>>>> On Sep 5, 2018, at 6:25 AM, Hurlid, Kathy <Hurlid.Kathy@epa.gov> wrote:
>>>>>
>>>>> Thanks, What we are trying to determine is if Dave wants to push a tweak. What the tweak is can be worked out. Region is trying to determine political support and agreement, and preferably before noon today when we meet with the state, So it can be a point of discussion. Thanks
>>>>>
>>>>> Sent from my iPhone
>>>>>
>>>>>> On Sep 4, 2018, at 3:42 PM, Eisenberg, Mindy <Eisenberg.Mindy@epa.gov> wrote:
>>>>>>
>>>>>> Can the Region see if the states and Corps would be comfortable with a slight tweak in language?
>>>>>> PERMIT

Ex. 5 Deliberative Process (DP)

>>>>> Mindy Eisenberg
>>>>> Associate Director, Oceans, Wetlands & Communities Division
>>>>> Office of Wetlands, Oceans and Watersheds
>>>>> U.S. Environmental Protection Agency
>>>>> 1200 Pennsylvania Ave., NW, mailcode 4504T
>>>>> Washington, DC 20460
>>>>> (202) 566-1290
>>>>> eisenberg.mindy@epa.gov
>>>>>
>>>>> -----Original Message-----
>>>>> From: Hurld, Kathy
>>>>> Sent: Tuesday, September 04, 2018 3:26 PM
>>>>> To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>;
Frazer, Brian <Frazer.Brian@epa.gov>
>>>>> Subject: quick input needed Re: MOA with track changes
>>>>>
>>>>>
>>>>> Hi, the region is asking if Dave R. and Matt L are okay with providing more clarity on the
language below, in the State-Corps MOA.
>>>>>
>>>>> Based upon the call I had with John Goodin, I think Dave R. agrees with us programmaticallly that

Ex. 5 Deliberative Process (DP)

>>>>>
>>>>> The language is currently drafted as:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

>>>>> The question is, Ex. 5 Deliberative Process (DP)
Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

>>>>> KH recommendation is to change the end to read Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

>>>>>
>>>>>
>>>>> From: Kupchan, Simma
>>>>> Sent: Tuesday, September 4, 2018 3:04 PM
>>>>> To: McGill, Thomas; Hurld, Kathy; Mancusi-Ungaro, Philip; Calli,
>>>>> Rosemary; Ghosh, Mita; Hicks, Matt; Parker, Christopher; Speir,
>>>>> Jeffrey; Purify, Johnnie
>>>>> Subject: RE: MOA with track changes
>>>>>

Ex. 5 Attorney Client (AC)

>>>>> Matt and David Fotouhi Ex. 5 Attorney Client (AC)
Ex. 5 Attorney Client (AC) I can't speak for Dave Ross and any policy preferences.
>>>>>

>>>>> Simma Kupchan
>>>>> EPA Office of General Counsel
>>>>> Water Law Office
>>>>> 202-564-3105
>>>>> WJC North #7426Q
>>>>>

>>>>> -----Original Message-----
>>>>> From: McGill, Thomas
>>>>> Sent: Tuesday, September 04, 2018 2:52 PM
>>>>> To: Hurld, Kathy <Hurld.Kathy@epa.gov>; Mancusi-Ungaro, Philip
>>>>> <Mancusi-Ungaro.Philip@epa.gov>; Calli, Rosemary
>>>>> <Calli.Rosemary@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Hicks,
>>>>> Matt <Hicks.Matthew@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>;
>>>>> Parker, Christopher <Parker.Christopher@epa.gov>; Speir, Jeffrey
>>>>> <speir.jeffrey@epa.gov>; Purify, Johnnie <Purify.Johnnie@epa.gov>

>>>>>> Subject: RE: MOA with track changes
>>>>>>
>>>>>> So do we have the backing of either Matt Leopold or Dave Ross on making the comments below?
>>>>>>
>>>>>> -----Original Message-----
>>>>>> From: HurlD, Kathy
>>>>>> Sent: Tuesday, September 4, 2018 2:36 PM
>>>>>> To: Mancusi-Ungaro, Philip <Mancusi-Ungaro.Philip@epa.gov>; Calli,
>>>>>> Rosemary <Calli.Rosemary@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>;
>>>>>> Hicks, Matt <Hicks.Matthew@epa.gov>; Kupchan, Simma
>>>>>> <Kupchan.Simma@epa.gov>; McGill, Thomas <Mcgill.Thomas@epa.gov>;
>>>>>> Parker, Christopher <Parker.Christopher@epa.gov>; Speir, Jeffrey
>>>>>> <speir.jeffrey@epa.gov>; Purify, Johnnie <Purify.Johnnie@epa.gov>
>>>>>> Subject: Re: MOA with track changes
>>>>>>
>>>>>> Not to cynical.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

>>>>>> From: Mancusi-Ungaro, Philip
>>>>>> Sent: Tuesday, September 4, 2018 2:10 PM
>>>>>> To: Calli, Rosemary; Ghosh, Mita; Hicks, Matt; HurlD, Kathy; Kupchan,
>>>>>> Simma; McGill, Thomas; Parker, Christopher; Speir, Jeffrey; Purify,
>>>>>> Johnnie
>>>>>> Subject: RE: MOA with track changes

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

>>>>>> Ex. 5 Deliberative Process (DP) I know, too cynical

>>>>>>
>>>>>>
>>>>>> From: Calli, Rosemary
>>>>>> Sent: Tuesday, September 04, 2018 1:14 PM
>>>>>> To: Ghosh, Mita <Ghosh.Mita@epa.gov>; Hicks, Matt
>>>>>> <Hicks.Matthew@epa.gov>; HurlD, Kathy <HurlD.Kathy@epa.gov>; Kupchan,
>>>>>> Simma <Kupchan.Simma@epa.gov>; Mancusi-Ungaro, Philip
>>>>>> <Mancusi-Ungaro.Philip@epa.gov>; McGill, Thomas
>>>>>> <Mcgill.Thomas@epa.gov>; Parker, Christopher
>>>>>> <Parker.Christopher@epa.gov>; Speir, Jeffrey <speir.jeffrey@epa.gov>;
>>>>>> Purify, Johnnie <Purify.Johnnie@epa.gov>
>>>>>> Subject: FW: MOA with track changes

>>>>>> Hi, folks - I asked DEP for the latest on the Corps MOA, and received the attached. In it, the
changes previously tracked were accepted, plus a few more changes were made.

>>>>>> The additional non-tracked changes I see made between the two versions are:

>>>>>> - In II.C.: "Modifications to the Retained Waters List and GIS layer, including identification of
the head of navigation, will only be made in the following circumstances: when the Corps makes a
navigability determination; a Federal court determines a water to be navigable makes a navigability
determination the United States Congress makes a navigability determination; "

>>>>>> - this addition at the very end of II.C: "Nothing in this Agreement affects the authority of the
Corps to make determinations of navigability pursuant to 33 C.F.R. Part 329."

>>>>>> - this addition at the very end of III.C: "Nothing in this Agreement affects the authority of the
Corps in implementing regulatory programs pursuant to the RHA."

>>>>>> - "[Corps provisional]" was struck from the beginning of V.B.(2)

>>>>>> - In VI.C., which I believe is a good improvement:

>>>>>> [cid:image001.png@01D44455.B1909AE0]

>>>>>> From: Mason, Heather [mailto:Heather.Mason@dep.state.fl.us]
>>>>>> Sent: Tuesday, September 4, 2018 11:53 AM
>>>>>> To: Calli, Rosemary

>>>>>> <Calli.Rosemary@epa.gov<mailto:Calli.Rosemary@epa.gov>>
>>>>>> Cc: Hurlld, Kathy <Hurlld.Kathy@epa.gov<mailto:Hurlld.Kathy@epa.gov>>;
>>>>>> Hicks, Matt <Hicks.Matthew@epa.gov<mailto:Hicks.Matthew@epa.gov>>;
>>>>>> Simmons, Kristen B.
>>>>>> <Kristen.B.Simmons@dep.state.fl.us<mailto:Kristen.B.Simmons@dep.state.
>>>>>> fl.us>>
>>>>>> Subject: RE: MOA with track changes
>>>>>>
>>>>>> Hi Rosemary,
>>>>>>
>>>>>> The attached is the latest. We've been working back and forth with Josh Holmes at the Corps. The
highlighted stuff is still being discussed by higher leadership.
>>>>>>
>>>>>> Thanks!
>>>>>>
>>>>>> Heather
>>>>>> 850-245-8480
>>>>>>
>>>>>> From: Calli, Rosemary [mailto:Calli.Rosemary@epa.gov]
>>>>>> Sent: Tuesday, September 4, 2018 11:31 AM
>>>>>> To: Mason, Heather
>>>>>> <Heather.Mason@dep.state.fl.us<mailto:Heather.Mason@dep.state.fl.us>>
>>>>>> Subject: FW: MOA with track changes
>>>>>>
>>>>>> Hi, Heather - I got an out-of-office response from Kristen. Do you know if this language was
mutually agreed to by the Corps and FDEP?
>>>>>>
>>>>>> From: Calli, Rosemary
>>>>>> Sent: Tuesday, September 4, 2018 11:29 AM
>>>>>> To: 'Simmons, Kristen B.'
>>>>>> <Kristen.B.Simmons@dep.state.fl.us<mailto:Kristen.B.Simmons@dep.state.
>>>>>> fl.us>>
>>>>>> Subject: RE: MOA with track changes
>>>>>>
>>>>>> Hi, Kristen - Was this latest version made with both Corps and FDEP participation (i.e.,
everybody agreed to this language)?
>>>>>>
>>>>>> From: Simmons, Kristen B. [mailto:Kristen.B.Simmons@dep.state.fl.us]
>>>>>> Sent: Thursday, August 30, 2018 4:32 PM
>>>>>> To: Hurlld, Kathy <Hurlld.Kathy@epa.gov<mailto:Hurlld.Kathy@epa.gov>>;
>>>>>> Hicks, Matt <Hicks.Matthew@epa.gov<mailto:Hicks.Matthew@epa.gov>>;
>>>>>> Calli, Rosemary
>>>>>> <Calli.Rosemary@epa.gov<mailto:Calli.Rosemary@epa.gov>>
>>>>>> Subject: Fw: MOA with track changes
>>>>>>
>>>>>>
>>>>>> Here are the track changes (the strikethroughs are the Corps language).
>>>>>>
>>>>>>
>>>>>> From: Simmons, Kristen B.
>>>>>> Sent: Thursday, August 30, 2018 4:20 PM
>>>>>> To: Mancusi-Ungaro, Philip
>>>>>> Subject: MOA with track changes
>>>>>>
>>>>>>
>>>>>> [Dep Customer
>>>>>> Survey]<https://clicktime.symantec.com/a/1/a31eP31Y_b049tjExULnQqg3RMC
>>>>>> sBCy_L-qjjAtfrTU=?d=EP7WPBMT91vJzmycSMam0Q-Jq326i0fPh9BIJv80dUkmKLoZk1
>>>>>> g8YiCIs4Lu7sSJezxH_63SzXXJ0hY-s7Ata-xcabtRnfxYBnNOEtYRFuGrk9Ls4yVN41IL
>>>>>> xvIdTfyelJv42a161icYO-RPgayyx-9m2T5Uq0oXthZY2L6ooRHctmEyrkJ7Q6L2Ssk0b
>>>>>> VL65SYrKHK75-7hFUW_tioEjBOGKHQ85o0Ter5EYC_n6bJt3AMPXjndGWJQ1_p315LpLGX
>>>>>> TyHpd0FEFp0muL530CbRRMLCznraGlf4j6ZxZzzC55Fi04K_KS1s8zHs23bv96M90cYy
>>>>>> AUpej4gs9dUmrADp1q0Zv3YUqf8UYMUj1DHItPpzEFvmOzRg9Aww2PDUxnuFmYC7WE-0Zn
>>>>>> oyRgdfnAX46G&u=http%3A%2F%2Fsurvey.dep.state.fl.us%2F%3Frefemail%3DKri
>>>>>> sten.B.Simmons%40dep.state.fl.us> [Dep Customer
>>>>>> Survey]<http://survey.dep.state.fl.us/?refemail=Heather.Mason@dep.stat
>>>>>> e.fl.us>